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10/722,172	11/24/2003	Brian J. Ray	2717P099	8538

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EXAMINER
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NINO, ADOLFO

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/722,172

Applicant(s)

RAY ET AL.

Examiner

Adolfo Nino

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/03; 3/05; 5/05</u> | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

Applicant's election without traverse of Group I, claims 1-13 and 15-17, in the reply filed on 10/3/05 is acknowledged.

***Information Disclosure Statement***

The information disclosure statements (IDS) submitted on 11/24/03; 3/7/05; and 5/4/05 are being considered by the examiner.

***Specification***

The disclosure is objected to because of the following informalities:

Page 12, paragraph [0061], line 7, "410" should be ---400---.

Page 12, paragraph [0062], line 1, "410" should be ---400---.

Appropriate correction is required.

***Claim Objections***

Claim 12 is objected to because of the following informalities:

Claim 12, lines 2-3, "side walls" should be one word.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7, 8, 12, 13 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Lortie et al. (US 6,553,172 B2).

Regarding claim 1 (currently amended), a cable harness (10; figs. 3-5) comprising: a frame (34) capable of being attached to a rack (col. 2, lines 20-21), the rack having a number of blades disposed therein, the frame (34) including a number of channels (34), each channel (34) for routing at least one cable from one of the blades and toward a rear of the rack; and a channel array (44) capable of being coupled with the frame, the channel array (52) including a number of channels (44), each channel (44) for routing at least one cable from one of the blades and towards one side of the rack wherein each channel (44) is defined by a generally semicircular channel floor (fig. 4) and two opposing channel sidewalls (42) extending from the channel floors each of the channels of the channel array extends along an approximate ninety degree arc (figs. 3-5). **Note** that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed (i.e. “for routing at least one cable from one of the blades and toward a rear of the rack” and “for routing at least one cable from one of the blades and towards one side of the rack”) does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987). **Moreover**, it has been held that the recitation

that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

Regarding claim 2 (Previously Presented), Lortie et al. disclose the cable harness (10) of claim 1, further comprising; a second channel array (32) capable of being coupled with the frame (34), the second channel array (32) including a number of channels (32), each channel (32) for routing at least one cable from one of the blades and towards an opposing side of the rack. **Note** that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed (i.e. "for routing at least one cable from one of the blades and towards an opposing side of the rack") does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987). **Moreover**, it has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

Regarding claim 3 (Previously Presented), Lortie et al. disclose the cable harness (10) of claim 2, wherein the frame (34) defines a first bay (not marked, but it would be the right side of 10 showing reference numbers 52, 46 as seen in fig. 4) for receiving the channel array and a second bay (not marked, but it would be the left side of 10 showing reference numbers 42, 60 as seen in fig. 4) for receiving the second channel array. **Note** that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed (i.e. "for receiving the second

channel array” and “for receiving the second channel array”) does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Regarding claim 4 (Previously Presented), Lortie et al. disclose the cable harness (10) of claim 3, wherein each of the first (right side of 10) and second (left side of 10) bays includes at least one guide element (60), the at least one guide element (60) of each bay to position a channel array in that bay. **Note** that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed (i.e. “for receiving the second channel array” and “to position a channel array in that bay”) does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Regarding claim 7 (Previously Presented), Lortie et al. disclose the cable harness (10) of claim 1, wherein each of the channels (34) of the frame (34) routes the at least one cable into an open cavity of the rack and toward the rear of the rack (figs. 1, 2).

Regarding claim 8 (Previously Presented), Lortie et al. disclose the cable harness (10) of claim 7, wherein, at the rear of the rack, the at least one cable associated with each of the channels (34) is routed upwards towards a top of the rack (fig. 1).

Regarding claim 12 (Previously Presented), Lortie et al. disclose the cable harness (10) of claim 1, wherein each channel (34) of the frame (34) comprises a

generally rectangular-shaped open channel (figs. 3-5) having a floor and two opposing sidewalls extending upwards from the floor (figs. 3-5).

Regarding claim 13 (Previously Presented), Lortie et al. disclose the cable harness (10) of claim 1, wherein each channel (44) of the channel array (44) comprises a generally rectangular-shaped open channel (figs. 3-5).

Regarding claim 15 (Previously Presented), Lortie et al. disclose the cable harness (10) of claim 13, wherein the floor is generally semicircular in shape (figs. 3-5).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lortie et al. (US 6,553,172 B2) in view of Debal (US 6,396,992 B1).

Regarding claim 5 (Previously Presented), Lortie et al. disclose the cable harness (10 in figs. 3-5 of Lortie et al.) of claim 3, **except for** each of the channel array and the second channel array being coupled with the frame using at least one fastener. Debal teaches that it is known to use at least one fastener to couple two pieces together as set forth at figure 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize at least one fastener to couple each of the channel array and the second channel array with the frame of Lortie et al, as taught by Debal in order to be able to replace just one of the pieces instead of the whole assembly.

Regarding claim 9 (Previously Presented), the modified Lortie et al. disclose the cable harness (10 in figs. 3-5 of Lortie et al.) of claim 1, wherein each channel of the channel array includes a hook (15 in fig. 1 of Debal) for receiving an anchoring device (col. 3, lines 12-15 of Debal), the anchoring device for holding a number of cables. **Note** that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed (i.e. "for holding a number of cables") does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).



Claim 6 (Previously Presented) is rejected under 35 U.S.C. 103(a) as being unpatentable over Lortie et al. (US 6,553,172 B2) in view of Nelson (US 6,586,680 B1).

Lortie et al. disclose the cable harness (10 in figs. 3-5 of Lortie et al.) of claim 3, **except for** each of the channel array and the second channel array being coupled with the frame by a snap fit. Nelson teaches that it is known to use couple two pieces together by a snap fit as set forth at column 5, line 16. It would have been obvious to one having ordinary skill in the art at the time the invention was made for each of the channel array and the second channel array of Lortie et al. to be couple with the frame by a snap fit, as taught by Nelson in order to be able to replace just one of the pieces without the need of any tools.

Claim 10 (Previously Presented) is rejected under 35 U.S.C. 103(a) as being unpatentable over Lortie et al. (US 6,553,172 B2) in view of Donahue (US 6,937,461 B1). Lortie et al. disclose the cable harness (10) of claim 1, **except for** each channel of the channel array includes a pair of opposing slots for receiving an anchoring device, the anchoring device for holding a number of cables. Donahue teaches that it is known to have a pair of opposing slots for receiving an anchoring device as set forth at column 4, lines 23-24. It would have been obvious to one having ordinary skill in the art at the time the invention was made for each channel of the channel array of the cable harness (10) of Lortie et al. to include a pair of opposing slots for receiving an anchoring device, as taught by Donahue in order to provide a way of holding an anchoring device. **Note**

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that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed (i.e. "for holding a number of cables") does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Claim 11 (Previously Presented) is rejected under 35 U.S.C. 103(a) as being unpatentable over Lortie et al. (6,553,172 B2) in view of McGrath et al. (US 6,766,093).

Lortie et al. disclose the cable harness (10 of figs. 3-5 of Lortie et al.) of claim 1, **except for** further comprising a cover capable of being attached to the frame, the cover overlying the channel array. McGrath et al. teach that it is known to have a cover as set forth at column 4, lines 26-32. It would have been obvious to one having ordinary skill in the art at the time the invention was made for the cable harness of Lortie et al. to have a cover, as taught by McGrath et al. in order to protect the cables and/or for aesthetics.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lortie et al. (US 6,553,172 B2) in view of Chan (US 6,686,541 B2).

Regarding claim 16 (Previously Presented), Lortie et al. disclose the cable harness (10) of claim 1, **except for** each of the frame (34) and the channel array (44) comprising a plastic material. Chan teaches that it is known to have a parts of a cable

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harness assembly be comprised of a plastic material as set forth at column 3, lines 55-57. It would have been obvious to one having ordinary skill in the art at the time the invention was made each of the frame and the channel array of the cable harness of Lortie et al. be comprised of a plastic material, as taught by Chan in order avoid the possibility of a shortage if any of the cables supported by the cable harness is exposed in the area contacting the cable harness. **Moreover**, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the frame and the channel array of Lortie et al. comprising a plastic material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Regarding claim 17 (Previously Presented), the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight. During examination, the patentability of a product-by-process claim is determined by the novelty and non-obviousness of the claimed product itself without consideration of the process for making it, which is recited in the claim. In re Thorpe, 227 USPQ 964 (Fed. Cir. 1985).

### ***Conclusion***

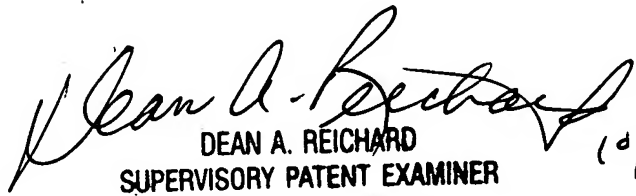
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gretz et al. (US 5,939,680) disclose an arcuate cable support.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adolfo Nino whose telephone number is (571) 272-1981. The examiner can normally be reached on M-F (7:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A. Reichard can be reached on (571) 272-2800 ext. 31. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AN

  
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10/17/05